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10/054,809	01/22/2002	Bernard A. Traversat	5681-06900	9617

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EXAMINER

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ART UNIT	PAPER NUMBER
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2152

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/054,809
Filing Date: January 22, 2002
Appellant(s): TRAVERSAT ET AL.

Robert C. Kowert
For Appellant

EXAMINER'S ANSWER

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This is in response to the appeal brief filed 9/14/06 appealing from the Office action mailed 04/06/2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The amendment after final rejection filed on 6/08/06 has been entered.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct. **(6)**

Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,269,099	Borella	07-1998
2002/0062375	Teodosiu	09-2001

Microsoft Computer
Dictionary, 1999, Microsoft,
4th edition, page 252.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

In view of the applicant's argument, the rejection of claims 5-7, 53, 62, 82, 101
are withdrawn.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 110-111 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

On page 127 of the specification applicant has provided evidence that applicant intends the medium to include signals as such the claim is drawn to a form of energy. Energy is not one of the four categories of invention and therefore claims 35-38,43-44,46,61 is not statutory. Energy is not a series of steps or acts and thus is not a process. Energy is not a physical article or object and such is not a machine or manufacture. Energy is not a combination of substances and therefore not a composition of matter.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1-4, 8-16, 18-24, 25-34,36-52,54-61,63-72,74-81,83-100,102-111 are rejected under 35 U.S.C. 103(a) as being unpatentable over Teodosiu et al (us 2002/0062375) (hereinafter Teodosiu) in view of Borella et al (us pat 6269099) (hereinafter Borella).

As regarding claim 1, Teodosiu discloses a plurality of peers, wherein each peer comprises a network node configured to communicate with one or more other ones of said peers over one or more networks (pg.1, par 8); a peer advertisement for each of said peers, wherein each peer advertisement comprises an identification of peer (see Teodosiu pg.2-3, par 0031); a plurality of peer services or content provided by one or more of said peers (pg.1, par.10, pg.2, par 29; pg.9, par 0122, peer resources may include content, services); and a service or content advertisement for each of said services or content, wherein each service or content advertisement comprises an identification of a corresponding service or content and an indication of how to access the corresponding service or content (pg.4, par 45-46).

Teodosiu does not expressly disclose communication address for a corresponding one of said peers.

Borella teaches communication address for a corresponding one of said peers (see Borella col.6, lines 34-60).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate the teaching of Borella in the system of Teodosiu to have the peer advertisement for each said peer, communication address for a

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corresponding one of said peers because both inventions taught about the peer to peer network and how these peers communicate with one another.

A person with ordinary skill in the art would have been motivated to modify the system of Teodosiu to have communication address for a corresponding one of said peers because using the communication address would allow a network device to identify one another and allow communication between peers (see Borella col.2, lines 45-57).

As regarding claim 2, Teodosiu-Borella discloses each peer advertisement is a programming language independent metadata document providing information about one of said peers (see Teodosiu pg.4, par 45-46).

As regarding claim 3, Teodosiu-Borella discloses wherein one or more of said peer advertisements further comprises an indication of a service or content provided by the peer corresponding to that peer advertisement (see Teodosiu pg.2-3, par 31).

As regarding claim 4, Teodosiu-Borella discloses indication of a service or content comprises one of said service or content advertisements (see Teodosiu pg.2-3, par 31).

As regarding claim 8, Teodosiu-Borella discloses plurality of peer services or content comprises a plurality of peer services (see Teodosiu pg.4, par 44-46), and wherein each corresponding service advertisement comprises a pipe advertisement, wherein said pipe advertisement specifies a communication channel on which to send one or more messages to invoke the corresponding service (see Borella col.7, lines 37-51). The same motivation was utilized in claim 1 applied equally well to claim 8.

As regarding claim 9, Teodosiu-Borella discloses one or more of said peers are configured to discover one or more of said peer (see Borella col.3, lines 13-19), service or content advertisements in order to locate other peers, services or content in the peer-to-peer network system (see Teodosiu pg.4, par 44-46). The same motivation was utilized in claim 1 applied equally well to claim 9.

As regarding claim 10, Teodosiu-Borella discloses send a discovery query message specifying a desired type of advertisement (see Borella col.6, lines 34-60, col.7, lines 37-51); and receive one or more advertisements in response to said discovery query message (see Borella col.6, lines 34-60, col.7, lines 37-51).

As regarding claim 11, Teodosiu-Borella discloses one or more of said peers are configured to publish their corresponding peer advertisements in the peer-to-peer network system to be discoverable by other peers (see Borella col.6, lines 34-60, col.7, lines 37-51). The same motivation was utilized in claim 1 applied equally well to claim 11.

As regarding claim 12, Teodosiu-Borella discloses one or more of said peers are configured to publish one or more of said service or content advertisements in the peer-to-peer network system to be discoverable by other peers (see Teodosiu pg.2-3, par 31).

As regarding claim 13, Teodosiu-Borella discloses each said peer advertisement and each said service or content advertisement is formatted according to a markup language schema defining elements of each type of advertisement (see Borella col.6,

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lines 34-60). The same motivation was utilized in claim 1 applied equally well to claim 13.

As regarding claim 14, Teodosiu-Borella discloses plurality of peer services or content comprises a first service and a plurality of different implementations of said first service for different platform types (see Teodosiu pg.3, par 38-40).

As regarding claim 15, Teodosiu-Borella discloses a service class advertisement describing said first service and a service implementation advertisement for each implementation of said first service wherein each service implementation advertisement describes a corresponding one of said implementations of said first service (see Teodosiu pg2-3, par 31, pg.4, par 44-46).

As regarding claim 16, Teodosiu-Borella discloses one of said peers is configured to use an implementation of said first service supported by that peer's platform (see Teodosiu, fig.3).

As regarding claim 18, Teodosiu-Borella discloses a first peer of said plurality of peers is implemented according to a first computing platform and wherein a first service of said plurality of services or content is implemented according to a second computing platform different from said first computing platform, wherein the corresponding service advertisement for said first service specifies a platform-independent method for accessing said first service so that said first peer can activate said first service (see Teodosiu pg.6, par 72-77).

As regarding claim 19, Teodosiu-Borella discloses one or more of said service or content advertisements comprises a time-to-live indicator, wherein the corresponding

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advertisement is deleted or invalidated when the time-to-live indicator expires (see Teodosiu pag.3, par 40).

As regarding claim 20, Teodosiu-Borella discloses said time-to-live indicator is decremented to reflect a current time-to-live when the corresponding advertisement is provided to another peer (see Teodosiu pg.8, par 0101-0102, 0105).

As regarding claim 21, Teodosiu-Borella discloses one or more of said peer advertisements comprises a security credential for authenticating the corresponding peer (see Teodosiu pg.3, par 32).

As regarding claim 22, Teodosiu-Borella discloses the security credential comprised by the peer advertisement for authenticating the corresponding peer is a public key signature (see Teodosiu pg.3, par 32).

As regarding claim 23, Teodosiu-Borella discloses one or more peers of the plurality of peers are configured to authenticate the security credentials comprised by peer advertisements (see Teodosiu, pg.3, par 32).

As regarding claim 24, Teodosiu-Borella discloses one or more peers are configured to confirm that the identification and security credential comprised by a particular peer advertisement indicate the same peer to authenticate each of the plurality of peers (see Teodosiu, pg.3, par 32).

As regarding claims 25-34,36-38, even though the wording of the claims are slightly different, but in light of the specification, the functionality of claims 1-4,8-16,18-24 and 25-34,36-38 are the same, not different, therefore the rejection of claims 1-4,8-

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16,18-24 equally applied to claims 25-34,36-38. Teodosiu further discloses a processor, a port, a memory (see pg.10, par 0126, also see figure 7)

As regarding claims 39-49, even though the wording of the claims are slightly different, but in light of the specification, the functionality of claims 1-4,8-16,18-24 and 39-49 are the same, not different, therefore the rejection of claims 1-4,8-16,18-24 equally applied to claims 39-49.

As regarding claims 50-52,54-56, even though the wording of the claims are slightly different, but in light of the specification, the functionality of claims 1-4,8-16,18-24 and 50-52,54-56 are the same, not different, therefore the rejection of claims 1-4,8-16,18-24 equally applied to claim 50-52,54-56.

As regarding claims 57-61,63-72,74-78, even though the wording of the claims are slightly different, but in light of the specification, the functionality of claims 1-4,8-16,18-24 and 57-61,63-72,74-78 are the same, not different, therefore the rejection of claims 1-4,8-16,18-24 equally applied to claim 57-61,63-72,74-78.

As regarding claims 79-81,83-93, even though the wording of the claims are slightly different, but in light of the specification, the functionality of claims 1-4,8-16,18-24 and 79-93 are the same, not different, therefore the rejection of claims 1-4,8-16,18-24 equally applied to claim 79-81,83-93.

As regarding claims 94-99, even though the wording of the claims are slightly different, but in light of the specification, the functionality of claims 1-4,8-16,18-24 and 94-99 are the same, not different, therefore the rejection of claims 1-4,8-16,18-24 equally applied to claim 94-99.

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As regarding claims 100,102-109, even though the wording of the claims are slightly different, but in light of the specification, the functionality of claims 1-5,8-16,18-24 and 100,102-109 are the same, not different, therefore the rejection of claims 1-5,8-16,18-24 equally applied to claim 100,102-109.

As regarding claims 110-111, even though the wording of the claims are slightly different, but in light of the specification, the functionality of claims 1-5,8-16,18-24 and 110-111 are the same, not different, therefore the rejection of claims 1-5,8-16,18-24 equally applied to claim 110-111.

Claims 17,35,73^{are} rejected under 35 U.S.C. 103(a) as being unpatentable over Teodosiu and Borella as applied to claims 1,25,57 above, and further in view of Microsoft dictionary 4th edition (hereinafter Microsoft).

As regarding claim 17, Teodosiu and Borella discloses all limitations of claim 1, and another one of said implementations of said service is a native code implementation (see Teodosiu pg.5-6, par 71-73) but the combinations of Teodosiu and Borella did not expressly disclose one of said implementations of said service is a Java implementation.

Microsoft teaches said implementations of said service is a Java implementation (see Microsoft dictionary pg.252).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to combine the teaching of Microsoft to the system of Teodosiu and Borella to use Java implementation because Java is designed to be secure and platform-neutral, it can run on any platform. Java is a useful language for programming web applications (see Microsoft pg.252).

As regarding claim 35, the limitations are the limitations are similar to limitations of claim 17, therefore rejected for the same rationale as claim 17.

As regarding claim 73, the limitations are the limitations are similar to limitations of claim 17, therefore rejected for the same rationale as claim 17.

(10) Response to Argument

1) As regard to claims 1,9-13,18,50,56,57,65-69,74,100,102-105,109 applicant argues "the rejection is improper because Examiner has not shown that Teodosiu qualifies as a prior art reference".

2) As regard to claim 1 applicant argues prior art fails to teach, "peer services or content", "an indication of how to access the corresponding service or content", "an identification of and communication address for a corresponding one of said peers".

3) As regard to claim 2, applicant argues the prior art does not teach, "peer advertisement is a programming language independent metadata document providing information about one of said peers".

4) As regard to claim 5, applicant argues the prior art does not teach "an endpoint advertisement, wherein said endpoint advertisement specifies said communication address for the corresponding peer..."

5) As regard to claim 8, applicant argues the prior art does not teach "wherein each corresponding service advertisement comprises a pipe advertisement, wherein said pipe advertisement specifies a communication channel on which to send one or more messages to invoke the corresponding service".

6) As regard to claim 14, applicant argues the prior art does not teach, "wherein said plurality of peer services or content comprises a first service and a plurality of different implementations of said first service for different platform types".

7) As regard to claim 19, applicant argues the prior art does not teach "time-to-live indicator".

8) As regard to claim 21, applicant argues the prior art does not teach, "wherein one or more of said peer advertisement comprises a security credential for authenticating the corresponding peer".

9) As regard to claim 6, applicant argues the prior art does not teach "a plurality of peer group, wherein each peer group comprises a plurality of said peer; and a peer group advertisement for each said peer group, wherein each peer group advertisement comprises an identification of a corresponding peer group and an indication of common set of service available to member of that peer group".

10) As regard to claim 25, applicant argues that limitations of claim 25 cannot find in claim 1, the prior art does not teach, "discover advertisement for resources".

11) As regard to claim 39, applicant argues that the limitations of claim 39 not found in claim 1, the prior art does not teach "a pipe end point advertisement, one or more service advertisements".

12) As regard to claim 79, applicant argues that limitations of claim 79 not found in claim 1.

13) As regard to claim 82, applicant argues that the prior art does not disclose limitation of claim 82.

14) As regard to claim 87, applicant argues that limitations of claim 87 not found in claims 1-24, the prior art does not teach "the resource type specifies one of a peer node, a peer group, a pipe, a pipe endpoint, content, or a service".

15) As regard to claim 94, applicant argues that limitations of claim 94, not found in claim 1, such limitations includes "programming language independent metadata document...".

As regard to first argument, the provisional and the published application of Teodosiu discloses the same invention. Even though, the Provisional application is shorter, but it provided the base for the published application. Under U.S.C.112, it does not mentions that the provisional application and the utility application have to be the same length or exactly the same word by word with the utility application.

Applicant argues "under 35 U.S.C. 119 (e), a published utility application is not entitled to its provisional application's filling date as a prior art date unless at least one claim of the published utility application is supported in the provisional application" Claim 1 of the published utility application is clearly support by the provisional application (see provisional application 60/252,658, pg.2-6).

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As regard to applicant's argument on claim 1, the invention claims in claim 1 is presented in an alternative form, "service or content" therefore, the prior art are not required to have both service and content, it can read on "service" or "content".

Teodosiu clearly teaches service or content advertisement (see pg.4, par. 0045-0046, the resource ID; also see pg.9, par 0122, resources can include services, content...).

Through out the applicant's specification, applicant does not specifically disclose in detail the step of "how to access content". "how to access content" is a very broad limitation and can be read on a lot of things, one of the example of "how to access the content" can be given the location of the resource, or given the identifier for the resource (see Teodosiu pg.4, par 0045-0046)... etc...

Teodosiu discloses unique identifier for a given peer is used to identify resources ... (see Teodosiu pg.2-3, par 0031). Borella discloses the network address for the device in the peer network (see Borella col.7, lines 52-67).

As regard to applicant's argument on claim 2, Teodosiu discloses "website, web server services..." Obviously, some kind of hyper mark up language such as HTML or XML is being used. Using HTML or XML is well known in the art for presenting information or content over the website.

As regard to applicant's argument on claim 5 and 82 the rejection is withdrawn.

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As regard to applicant's argument on claim 8, Borella discloses two devices communicate using peer discovery protocol, channel (i.e. data flow) between two devices are existed (see Borella col.7, lines 37-51).

As regard to applicant's argument on claim 14, Teodosiu discloses peer nodes can be different types of devices, resources can also be variety types such as files... devices attached to peer, web services... application instances (see Teodosiu pg.9, par 0122).

As regard to applicant's argument on claim 19, time to live in light of applicant's specification refers to expiration indication, Teodosiu teaches discard the obsolete version, this version is based on the date and time (see Teodosiu pg.8, par 0101-0102, 0104), which is some kind of time indicator, this time indicator is equivalent to the time to live indicator in applicant's claim.

As regard to applicant's argument on claim 21, Teodosiu discloses encryption keys for secure communications among peer nodes (see Teodosiu pg.3, 0032).

As regard to applicant's argument on claim 6, the rejection is withdrawn.

As regard to applicant's argument on claim 25, even though the wording of the claims are slightly different, but in light of the specification, the functionality of claims 1

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and 25 are the same, not different, therefore the rejection of claim 1 equally applied to claim 25. Teodosiu further discloses the resource ID, and the location of the resource (see Teodosiu pg.4, par 0045-0046), the resource ID and the location of the resource is equivalent to "discover advertisement for the resource". This limitation is similar to the "service or content advertisement" of claim 1.

As regard to applicant's argument on claim 39, even though the wording of the claims are slightly different, but in light of the specification, the functionality of claims 1 and 39 are the same, not different, therefore the rejection of claim 1 equally applied to claim 39. The rationale of the third response above, applied equally well to this argument. Borella further discloses the communication address of the peer, when one peer send message to the other peer, the communication address included in the message, this is equivalent to the pipe endpoint advertisement, the communication address for peer is also included in claim 1. Teodosiu further teach the ID for the resource, (see Teodosiu pg.4, par 0045-0046), the resource may includes files...services... (see Teodosiu pg.9, par 0122), therefore Teodosiu teaches the service advertisement.

As regard to applicant's argument on claim 79, the limitations of claim 79 is similar to the limitations of claims 1 and 2, the wording of the claim 79 may be slightly different, but in light of the specification, the functionality of claim 79 compare to claims 1-2 are the same, not different, therefore the rejection of claim 1-2 equally applied to

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claim 79. the rationales of the second response and the fifth response above equally applied to claim 79.

As regard to applicant's argument on claim 82, the rejection is withdrawn.

As regard to applicant's argument on claim 87, even though the wordings of the claims are slightly different, but in light of the specification, the functionality of claim 87 is similar to limitations of claim 1-24. The claim language express in such a way that resource specifies one of the item from the given list (a peer node, a peer group, a pipe, a pipe endpoint, content, or a service), therefore the claim can be read "the resource specifies content", Teodosiu teaches the resource may includes files...services (see Teodosiu pg.9, par 0122).

As regard to applicant's argument on claim 94, the limitations of claim 94 is similar to the limitations of claims 1 and 2, the wording of the claim 79 may be slightly different, but in light of the specification, the functionality of claim 94 compare to claims 1-2 are the same, not different, therefore the rejection of claims 1-2 equally applied to claim 94. The rationales of the second response and the fifth response above equally applied to claim 94. The rationale applied to claim 2 above also apply to claim 94.

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(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

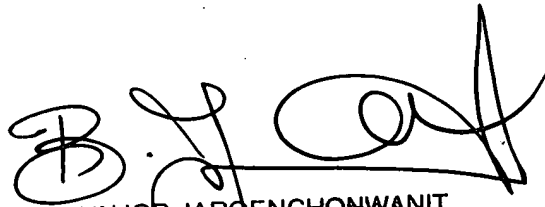
Examiner

Duyen Doan

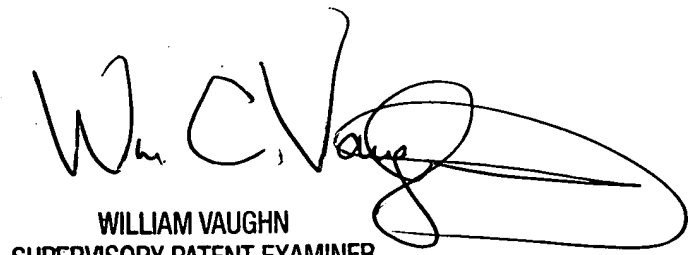
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